

U.S. Application No. 09/506,808

**Amendments to the Drawings**

The attached sheets of drawings includes changes to Figs 3 and 8. In Figs. 3 and 8, minor typographical errors are corrected in accordance with the Request for Approval of Drawing Corrections filed on February 18, 2000.

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**REMARKS****RECEIVED  
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The Applicants request reconsideration of the rejection.

Claims 34-73 are now pending, including new claims 50-73.

The Applicants submitted an Information Disclosure Statement and Form PTO-1449 on January 29, 2001. However, the Applicants have not received an initialed Form PTO-1449 from the Examiner acknowledging his consideration of the references. The Applicants respectfully requests that the Examiner include an initialed Form PTO-1449 with the next Patent Office communication. A copy of the Form PTO-1449 filed on January 29, 2001 is attached for the Examiner's convenience.

The Examiner requires a new title for the invention, which has been provided above.

Further, the objection to the drawings is interpreted as an objection to the proposed drawing corrections that were submitted on February 18, 2000 under regulations that have been superseded. Accompanying this Reply are formal copies of all figures, including the corrected figures.

Claims 37, 39 and 45-49 were rejected under 35 U.S.C. §112, first paragraph. The Examiner indicated that the "modules" are not explicitly defined in the present specification, and thus has interpreted the modules as being sets of computer instructions embedded in a computer-readable medium causing a computer to perform certain activities. While the Applicants do not disagree that the modules cover such computer instructions, the claims have been amended to recite "means" instead of "modules".

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Claims 37-39 and 45-49 were rejected under 35 U.S.C. §112, second paragraph, as failing to be supported clearly by the disclosure. The Applicants believe that the amendments set forth above address the Examiner's concerns.

Claims 34-49 were rejected under 35 U.S.C. §102(e) as being anticipated by Fisher, U.S. Patent No. 5,835,896 (Fisher). The Applicants traverse, incorporating all prior arguments of record, and in light of the following arguments.

Turning to claim 34 by way of example, the Applicants note that the invention is limited by requiring that, if it is judged that a competitive state occurs, the auction price is increased by a predetermined value and the following steps are repeated:

judging, in the server computer, whether a current auction price is equal to or lower than the price that the bidder thinks acceptable to pay, for each bidder;

determining, in the server computer, a remaining bidder who sent a price information by which is its judged that the current auction price is equal to or lower than the price in (the judging step); and

judging, in the server computer, that a competitive state occurs when there is more than one remaining bidder in (the determining step).

Claims 37, 40 and 45 have similar limitations.

Thus, whenever it is determined by the server computer that a competitive state occurs because there is more than one remaining bidder, the auction price is increased by a predetermined value, and each bidder's acceptable price is compared with the current auction price. Fisher, on the other hand, discloses a bid manager that bids on a bidder's behalf in order to update the bid list for open items. A bid manager increments proxy bids by a preset increment until either there are no

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additional proxy bids marked as unsuccessful or the proxy limits have been reached. See column 9, lines 18-35 and Fig. 7.

Thus, while Fisher discloses proxy bids that are incremented by the bid manager, the proxy bids are provided by the bidders. Fisher does not disclose that an auctioneer sets an auction price and increases the auction price in accordance with the competitive state of the auction. In other words, Fisher does not determine whether a competitive state occurs each time the auction price is increased. However the claims require this important determining step.

Thus, when a new bidder places a bid that is above a currently displayed high bid, Fisher's proxy feature will cause the current high bid to move up to an amount higher than the new bid, up to the maximum amount of the current high bidder's proxy bid. Then, when a new bidder places a bid that exceeds the current high bidder's proxy bid, this new bid becomes the current high bid, and the previous high bid becomes the second highest bid. That is, if the maximum amount of the current high bidder's proxy bid is higher than the new bidder's current bid, the current high bidder's proxy bid is increased to higher than the new bidder's proxy bid. On the other hand, if the new bidder's proxy bid is higher than the maximum bid set by the current high bidder, the new bidder has the highest bid. As a result, a competitive state is solved, but Fisher never determines whether the competitive state occurs each time the price is increased. Accordingly, Fisher does not disclose or fairly suggest the invention as set forth in the present claims.

The difference is significant because, once Fisher's bidder sends bid information to the server from the bidder's terminal in order to purchase the product, the server automatically performs the auction. The bidder is not required to be at the

terminal during the auction and the client can obtain the product with less than the maximum amount which has been sent to the server. While these features are similar to those of the present invention, Fisher performs his comparison only between the current high bidder and a new bidder. If plural products are presented in the auction, and plural bidders may be successful bidders, Fisher cannot guarantee that the proxy bidder will obtain the product with the lowest possible price.

In the present invention, on the other hand, because the server judges whether a competitive state occurs each time the auction price is to be increased, if plural products are presented to the auction and the plural bidders may all be successful, each bidder can obtain the product with a lower price. Thus, the present invention differs from Fisher in a real and patentable sense.

New claims 50-73 have been added to claim various features of the invention in terms of scope differing from those of the presently-examined claims. Each of the new claims, at least, is patentable on the basis of the patentable features inherited from their respective independent claims, and each new claim has separate patentability as well.

The Applicants' representative will telephone the Examiner to schedule an interview to discuss the present amendments and new claims. If the Applicants' representative has not been successful in contacting the Examiner before January 31, please call the Applicants' representative at the number below to schedule the interview.


In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

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To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. ASA-672-02).

Respectfully submitted,

MATTINGLY, STANGER, MALUR &amp; BRUNDIDGE, P.C.

  
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Attachment: Replacement Sheets

**COPY**Sheet 1 of 1TO-1449  
(7-80)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO.

ASA-672-02

SERIAL NO.

09/506,808

**LIST OF DOCUMENTS CITED BY APPLICANT**  
(Use several sheets if necessary)

APPLICANT

M. MORI et al.

FILING DATE

February 18, 2000

GROUP

2764

**U.S. PATENT DOCUMENTS**

EXAMINER INITIAL	DOCUMENT	DATE	NAME	CLASS	SUBCLASS	FILING DATE (If Appropriate)
AA						
AB						
AC						
AD						
AE						
AF						
AG						
AH						
AI						
AJ						
AK						

**FOREIGN PATENT DOCUMENTS**

	DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
AL	0 716 386	06/12/96	Europe			<input type="checkbox"/>	<input type="checkbox"/>
AM						<input type="checkbox"/>	<input type="checkbox"/>
AN						<input type="checkbox"/>	<input type="checkbox"/>
AO						<input type="checkbox"/>	<input type="checkbox"/>
AP						<input type="checkbox"/>	<input type="checkbox"/>

**OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)**

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EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 608. Draw line through citation if not in conformance and not considered. Include copy of this form with communication to applicant.